IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.448 OF 1992

WITH

CIVIL APPLICATION NO.2207 OF 1992

Dhansukhlal Amritlal Parekh & Ors. ...Appellants

Versus

M/s.Godrej & Boyce Manufacturing

Co. Ltd. & Ors. ...Respondents

.....

Mr.A.K.Abhyankar, Sr.Counsel with Mr.Jaideep Mitra i/b M/s.Desai Chinoy for Appellants.

Mr.K.D.Mehta with Mr.A.J.Dhapsekar i/b Ms.Payne & Co. for Respondents.

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CORAM: A.M.KHANWILKAR, J.

APRIL 7, 2006.

P.C.

1. Heard Counsel for the parties. This Appeal takes exception to the Judgment and Order passed by the City Civil Court dated 2nd April 1992 in Notice of Motion No.4447 of 1988, whereby, the

Trial Court has dismissed the Notice of Motion preferred by the Appellants/Plaintiffs. It is not in dispute that during the pendency of the Notice of Motion before the Trial Judge, ad-interim order was passed and which operated. However, when the matter was brought before this Court by way of present Appeal from Order, this Court on 30th June 1992 passed the following order on the Civil Application for interim relief :

> "Rule.
> Rule made returnable forthwith.
> Heard.
> Rule absolute in terms of clause (a).
> Costs Costs in the cause."

. The order in terms of relief (a) would read thus :

> "(a) That pending the hearing and the final disposal of this appeal, the Respondents, their officers, servants and/or agents be restrained by an order and injunction of this Hon'ble Court from in any manner selling, transferring, alienating, encumbering, developing, disposing of, parting with possession or in anyh manner dealing with the suit property or from creating any third party rights there, whether by way of a lease, licence, easement or otherwise however or whether by developing the suit property or part thereof on their own or thgough otehr

> building contractors or builders or from doing any act, deed or things whatsoever in relation to the suit property." has been admitted by this Court. The order in terms of relief (a) would read thus:

. On the same date, the Appeal from Order has been admitted by this Court.

2. It is not in dispute that this order has operated althroughout since 1992. In this backdrop, instead of going into the contentious issues raised before this Court in the present Appeal from Order leaving all questions open, the Appeal is disposed of by ordering that the interim order passed by this Court to continue till the disposal of the Suit. The Suit, in turn, is directed to be disposed of finally as expeditiously as possible by the Trial Court, in any case, by end of December 2006. The Trial Judge will bear in mind that the Suit pertains to year 1988 and will have to be disposed of within the time bound frame referred to above. All questions in the said Suit are left open to be decided on its own merits in accordance with law.

3. Appeal from Order disposed of on the above terms with no order as to costs.

4. In view of the above order, Civil Application also stands disposed of.

A.M.KHANWILKAR, J.